



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

THE ALIEN SUFFRAGE PROVISION IN THE CONSTITUTION OF WISCONSIN<sup>1</sup>

According to the organic law of Wisconsin Territory, enacted by Congress in erecting the territory in 1836, only citizens of the United States were eligible to the franchise (section V, proviso). About the year 1840, immigrants from Germany, the British Isles, and Norway became an appreciable factor in the population of the territory; but the naturalization law requiring a five years' residence disfranchised this large group of settlers. The situation grew tense by 1843, especially since the question of statehood was being discussed, and seemed likely to come to a head in 1844. Moreover, the matter was complicated by the Native-American agitation throughout the country. Many openly advocated a twenty-one year provision for naturalization, and Wisconsin's foreigners grew restive under this possibility.

It seemed quite certain that the Wisconsin legislature of 1844 would pass a law providing for a referendum on the subject of statehood. In December, 1843, a large public meeting of German citizens was called at Milwaukee who drew up a petition for the right to participate in this referendum. This was signed by 1,200 persons, and was probably the largest petition ever presented to the territorial legislature. It became impossible to ignore the demand of the foreign settlers. The Whig and Democratic parties were struggling for the control of the territorial offices. Wisconsin was normally Democratic by an overwhelming majority, but the Tyler administration had appointed a Whig governor, and patronage went with the administration. The Whigs were accused of alliance with nativism; it therefore became them to prove the falsity of the charge. The Democrats felt certain of the foreign vote. The legislature, therefore, on January 22, 1844, passed "An Act in relation to the qualification of voters for state government and for the election of delegates to form a state constitution," which provided that "all free white male inhabitants above the age of 21 years, who have resided in said territory three months shall be deemed qualified, and shall be permitted to vote on said question" and for delegates to a convention to frame a constitution.

<sup>1</sup>This résumé was prepared in response to a recent request received by the Historical Library for information on the subject.

The referendum vote which was taken in September, 1844, proved adverse to the question of a state government. There is no means of ascertaining how many foreigners voted upon the question, but the entire vote was very light, and the alien voters seem not to have influenced the decision, which was anticipated by all parties in the territory.

About the same time the territorial legislature passed the act above referred to, General Henry Dodge, Wisconsin's territorial delegate in Congress, presented to that body a petition signed by 300 citizens in the western part of the territory praying for a repeal of the proviso in the fifth section of the organic law of Wisconsin, and for the passage of a law granting suffrage to every free white male inhabitant of the age of twenty-one years within the territory, foreigners included. This is the petition referred to by G. F. Franklin in his *Legislative History of Naturalization*. The names of the signers of the petition are not available. We conjecture that they were those of the Cornish miners of that region, rather than of the American settlers, because in after debates, the southwest section of the state opposed the law allowing aliens to vote.

The law of 1844 was at once attacked, and was made the basis of an attempt to defeat several prominent members of the legislature who had voted for it. This was especially true in the northeast section where the reelection of Dr. Mason C. Darling, a prominent Democrat, was opposed because of his advocacy of the alien voting law. It was claimed that the law was unconstitutional, violating both the Constitution of the United States and the organic law of the territory. Dr. Darling came out with several long addresses on the subject, basing the right of aliens to vote on the twelfth article of the Ordinance of 1787, and on the inherent right of a sovereign state to form its constitution as it thought best.

Dr. Darling was reelected, but the legislature of 1845 had hardly begun its session when a determined effort was made to repeal the law of the previous session. In the course of the debates Dr. Darling offered a clause on the declaration of intention as an amendment, and another member amended the three months to six months. Both of these changes were accepted by the friends of the bill as compromise measures to mitigate the opposition. Dr. Darling said in

his argument that he considered the intention declaration as of no consequence, except as an evidence of actual settlement. This compromise saved the bill, and the amended act, approved February 8, 1845, reads: "No person shall hereafter vote upon the subject of state government, or for delegates to form a state constitution, who shall not have resided six months within the Territory, and as an additional qualification shall be a citizen of the United States, or shall have declared his intention to become such; as the law requires."

Thus the matter rested until the legislature of 1846 arranged again to submit the question of a state government to the people. An attempt was made by the Whig party to amend the law of 1845 and allow only citizens to vote. The suffrage provision was complicated by differences concerning negro, half-breed, and Indian suffrage. On the test vote the law of 1845 was maintained by the strong majority of 19 to 7, nearly all the Democrats voting in its favor.

The constitutional convention met in October, 1846, and the question of alien suffrage was much debated. Upon the ground that the acts of 1844 and 1845 were both unconstitutional, petitions poured in, especially from the Southwest, to limit the franchise to citizens of the United States. The foreigners also availed themselves of the right of petition, and the able German delegates in the convention created a favorable impression for alien suffrage. As finally adopted, the article granted suffrage to one-year residents, and "all white persons not citizens of the United States, who shall have declared their intention to become such, in conformity with the laws of Congress for the naturalization of aliens, and shall have taken before any officer of this state \* \* \* an oath to support the constitution of the United States and of this state."

The constitution of 1846 was rejected by the people. In the discussion, then, of the provision for alien voters it played but a small part. The friends of the constitution set forth its liberality to foreigners and the fact that it acknowledged the equal rights nature bestowed upon foreign and native-born citizens alike. Opponents of the constitution set forth on the one hand the over-liberality to the alien element, and on the other hand the requirement of an additional oath as an illiberal burden to foreign residents.

In the constitutional convention of 1847-48 the subject of the foreign franchise occupied a large share of the time of the delegates. The delegates from the western counties came with a deliberate determination to limit the franchise to citizens of the United States. The admission of foreigners to suffrage placed the West in a permanent minority, as the lake-board and middle sections of the territory had the bulk of the immigrant population.

The original proposition as brought in by the committee restored the residence requirement to six months, retained the intention of citizenship clause, and omitted the special oath. The examples of New York, Ohio, and Illinois were cited. One member urged that the one-year requirement was necessary in New York to ascertain the permanent character of the residence, while all who came to Wisconsin came for permanent homes and six months was long enough to prove residence. The effect of the shorter period would be to encourage foreigners to file their intentions sooner. It was admitted that the six-months provision was carried in committee by a very narrow majority.

The attack on the article on alien suffrage was begun by an amendment to limit suffrage to citizens. It was alleged that the article as reported by the committee was unconstitutional and would cause Congress to reject the constitution. In reply the similar provisions in the constitutions of Ohio and Illinois were cited. The new constitution of Illinois was cited by both parties to the controversy; one claiming the change had occurred because of dissatisfaction with the more liberal provision; the other that Illinois' new constitution had not yet been acted upon. Charges were freely made of demagoguery—that the Democrats were toadying to the foreign vote. In reply, the Democrats appealed to the liberality and progressiveness of their party policies, and declared that the aliens, being taxed, were entitled to vote. The citizen amendment was defeated by a vote of 53 to 16; and the suffrage article as originally reported by the committee was incorporated into the constitution. With the amendments required by the amendments to the Constitution of the United States, the provision was part of the organic law of Wisconsin until 1912.

LOUISE P. KELLOGG.